

Exhibit 3

Report of

Dr. Daniel O'Connell, M.D.

, M.P.H.

Daniel O'Connell, M.D., M.P.H.
Board Certified Neurologist
585 Stewart Avenue, Suite 310
Garden City, NY 11530
Tel: 516-358-2675

August 24, 2021

Claimant: [REDACTED]
Date of Loss: 12/22/2020
WCB #: [REDACTED]
Carrier Case #: [REDACTED]
CorVel #: [REDACTED]
Exam Type: Workers' Compensation
Specialty: Neurology

To Whom it May Concern:

As per your request, I examined the above referenced claimant for the purpose of an independent neurological evaluation on August 24, 2021 in my Brooklyn, New York office. The claimant was driven to the examination and presented his New York State learner's permit to verify his identity. He was accompanied by [REDACTED]. The examination table and chairs were sanitized before he entered the room. Masks were worn by the claimant, scribe, doctor, and Ms. [REDACTED]. Social distancing rules were followed in the waiting room and examination room. The claimant was informed of the purpose of the evaluation, told of its non-confidential nature, and consented to participate. The claimant was examined in the presence of my scribe, Cheryl. The findings of my examination are as follows:

HISTORY AS PROVIDED BY THE CLAIMANT

The claimant stated that while working on December 22, 2020, he was installing a wooden plank with a coworker. While holding the ladder, a wooden plank fell on his head, causing him to fall on his left knee. He was wearing a helmet at the time, and it was strapped appropriately. He claimed that as a result, he sustained injuries to his head, neck, jaw, shoulders, lower back, and left knee. The next day, he complained of pain starting in his neck, back and shoulders. The claimant denied a loss of consciousness but reported feeling dizzy. There were no lacerations. He was not seen in the emergency room for any medical attention. Subsequently he received physical therapy, orthopedic and pain management treatment. He was given a cane and a back brace. The claimant is currently receiving physical therapy three days per week for his neck, back and shoulders, which helps a little. He denied receiving any injections. He is awaiting authorization for neck injections. There are no source reports available but treating physicians have listed his cervical spine imaging as being "normal". The claimant has not undergone any surgery relative to the incident.

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OCCUPATIONAL STATUS

At the time of the incident, the claimant was employed full-time as a construction worker. He has not returned to work since the incident due to his left knee, other pains, and dizziness. He is receiving workers' compensation benefits for this case. He states his typical day consists of attending treatment. Due to left knee pain and dizziness, the claimant's mother helps with chores. He states sometimes when he is going "number two" in the restroom, his mother must assist due to lower back pain. He alleges his mother positions him on the toilet seat.

MEDICAL RECORDS REVIEWED

The following records were available for my review at the time of the examination:

- C-3 form dated 12/29/20
- MG-2 form dated 08/10/21, submitted by Chaim Y. Mandelbaum, M.D.
- NeuroQuant® MRI study with DTI dated 01/17/21, interpreted by Karl L. Hussman, ordered by Aric Hausknecht, M.D. *Impressions: 1. Statistically significant FA reduction on DTI analysis within the left deep temporal lobe, most compatible with traumatic brain injury, less likely due to statistical variation. 2. Statistically significant derangement of major metabolite ratios with the centrum semiovale most compatible with traumatic brain injury. 3. Normal T2/FLAIR and SWI imaging. 4. Clinical correlation is needed; follow-up Multi-Modal MRI examination including NeuroQuant® and spectroscopy is recommended at clinically appropriate time.*
- S.O.A.P. notes dated 01/07/21, 02/12/21, 04/15/21, submitted by NY Ortho, Sports Medicine & Trauma, P.C.
- Evaluation reports dated 01/08/21, 02/16/21, 02/17/21, 02/18/21, 03/10/21, submitted by Complete Care
- EEG report dated 01/08/21, submitted by Complete Care
- Brainstem auditory evoked potential report dated 01/08/21, Complete Care
- MyoVision reports dated 01/15/21, 04/23/21, 06/25/21, 07/26/21, submitted by Bay Ridge Chiropractic, P.C.
- SEP reports dated 02/16/21, 03/10/21, submitted by Complete Care
- NCV/EMG reports dated 02/16/21, 03/10/21, submitted by Complete Care
- Evaluation report dated 03/17/21, submitted by Stephen Collins, M.D.
- Radiographic reports dated 04/28/21, 05/07/21, illegible signature
- Evaluation reports dated 01/12/21, 05/17/21, 07/19/21, submitted by Bay Ridge Chiropractic, P.C.

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- ROM/MT reports dated 06/01/21, 06/08/21, 06/11/21, 08/02/21, 08/06/21, submitted by Stephen Collins, M.D.
- Progress notes dated 06/22/21, 08/03/21, submitted by Comprehensive Pain Management and Spine Care, P.L.L.C.

PAST MEDICAL AND SURGICAL HISTORY

Unremarkable. He denies any prior injuries to his head, neck or back.

PRIOR ACCIDENTS

None reported. The claimant denied any re-injury.

PRESENT MEDICATIONS

The claimant is taking incident-related naproxen, gabapentin and ibuprofen. He took ibuprofen today.

ALLERGIES

None reported.

FAMILY HISTORY

Non-contributory.

SOCIAL HISTORY

The claimant is single with no children. He is a non-smoker and denied the use of alcohol or recreational drugs.

PRESENT COMPLAINTS

The claimant currently reports occipital headaches, dizziness and pain in his neck, shoulders, lower back, and left knee. He states his left knee hurts more when he walks and when not walking, his lower back hurts more. The claimant states his left knee hurts most and his back second. His third pain is his neck, fourth is his left shoulder, fifth is his right shoulder and sixth are headaches.

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NEUROLOGIC EXAMINATION

PHYSICAL EXAMINATION: The claimant is a 21-year-old right-handed male with black hair and brown eyes. He stands 5' 5" tall and weighs 130 pounds.

GAIT: The claimant's gait is non-physiologic. He brings a cane, however he can get up to a standing position without his cane. He successfully demonstrates he does not need his cane to walk. He uses the cane due to "left knee pain". He is wearing a back brace that is removed for the examination. The claimant able to stand on his heels and toes without assistance. The claimant is able to transfer himself to and from the examination table without any assistance. He successfully performs tandem walk.

HIGHER CORTICAL FUNCTION: The claimant is pleasant and cooperative. His mood and affect are appropriate for the setting. He is alert and oriented to person, place and time. Recent and remote memories are intact. Speech is fluent. There is no expressive or receptive aphasia. Immediate registration is within normal limits. Repetition is within normal limits. Naming is within normal limits. No finger agnosia. No right left confusion.

CRANIAL NERVES: No photophobia. Visual fields are grossly normal. The pupils are equal and reactive to light. Facial muscles are symmetric without signs of weakness. Sensation is intact over all three branches of the trigeminal nerve. There is no nystagmus. Extraocular movement intact. No dysarthria. Sternocleidomastoid power is full.

HEAD/FACE: Atraumatic. No palpable mass or tenderness. No facial tics. No facial twitches. No Battle's sign. No nasal drainage. No raccoon eyes. Normocephalic.

MOTOR EXAMINATION: There are no fasciculations, twitches or jerks. There is no atrophy of the thenar or hypothenar eminence. No interossei wasting. No disuse atrophy. No involuntary motor activity. No arm drift. Motor tone is within normal limits. Power against resistance is full. Grip strength is normal. Dorsiflexion and plantarflexion against resistance is normal.

CEREBELLAR: No tremor. No dysmetria on finger-to-nose testing or heel-knee-shin testing. No ataxia with tandem gait.

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REFLEXES:

Triceps	Biceps	Brachioradialis	Knee	Ankle
R2+	R2+	R2+	R2+	R2+
L2+	L2+	L2+	L2+	L2+

*No ankle clonus. Plantar responses are flexor bilaterally.

SENSORY EXAMINATION: Sensation to light touch is normal throughout the face, arms and legs. Romberg's Sign is negative.

RANGE OF MOTION TESTING*

Normal range of motion is based on the AMA Guidelines, 5th Edition, pages 596-598

CERVICAL SPINE

	<u>Claimant</u>	<u>Normal</u>
Flexion	5	50
Extension	5	60
Lateral Flexion (R)	5	45
Lateral Flexion (L)	5	45
Rotation (R)	10	80
Rotation (L)	10	80

The claimant is observed to do more when not specifically testing range of motion. Negative for percussion tenderness or muscle spasm. Spurling's Test is negative. Lhermitte's Sign is negative.

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THORACOLUMBAR SPINE

	<u>Claimant</u>	<u>Normal</u>
Flexion	15	60
Extension	10	25
Lateral Flexion (R)	10	25
Lateral Flexion (L)	10	25
Rotation (R)	5	30
Rotation (L)	5	30

Negative for percussion tenderness or muscle spasm. Straight leg raising to 90 degrees bilaterally elicits no referred pain. The claimant is observed to do more when not specifically testing range of motion.

**Range of motion testing is measured by a goniometer and my clinical judgement.*

IMPRESSION AND DIAGNOSIS

- Post-Concussion Syndrome, Resolved
- Post-Traumatic Headaches, Resolved
- Cervical Sprain and Strain, Resolved
- Lumbar Sprain and Strain, Resolved

NEED FOR TREATMENT

Based on the findings of my examination of the claimant and review of the available records, further causally related neurological treatment or physical therapy are not reasonable or medically necessary. There is no need for diagnostic testing (including EMG/NCV studies) from a neurological perspective. Today's examination was notable for excessive pain behaviors and symptom exaggeration. Physical examination was limited by poor effort. Manual muscle testing, sensation and reflexes were normal, which means the claimant is neurologically intact. However, range of motion testing is passive and completely subjective.

DISABILITY

In my opinion as a specialist in neurology, the claimant is presently not disabled secondary to the injuries sustained in the work-related incident of December 22, 2020. The claimant can perform his regular return to work on a full-time basis without any restrictions.

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Attestation:

I, Daniel O'Connell, M.D., being a physician duly licensed to practice medicine in the State of New York, pursuant to CPLR2106, hereby affirm under the penalty of perjury that the statements contained herein are true and accurate. The claimant was examined according to the restricted rules concerning an independent medical examination. It is, therefore, understood that no doctor/patient relationship exists or is implied by this examination. The claimant was examined in reference to the specific complaint emanating from the original injury. Any other medical conditions, which were either unreported or felt to be unrelated to the original injury, are considered to be beyond the purview of this examination. I hereby certify that this report is a full and truthful representation of the independent medical examiner's professional opinion with respect to the claimant's condition in accordance with Workers' Compensation Law Sections 13-a (4)(e)(i), 13-k (3)(e)(i), 13-l (3)(e)(i) or 13-m (4)(e)(i). No person or entity caused, directed or encouraged me to submit a report that differs substantially from this independent medical examiner's professional opinion.

I have reviewed my report and attest to its accuracy.

**Daniel O'Connell, M.D., M.P.H.****Diplomate, American Board of Psychiatry and Neurology (Neurology)**

License No. 290039-01

WCB No. [REDACTED]

DE/cg

I am available for testimony by appointment only with four weeks advanced notice.